

MINUTES OF THE TOWN BOARD MEETING OF APRIL 13, 2016

PRESENT: Supervisor Edward Fairbrother
Council Andy Gillette
Bob Adams
Lee Giammichele
Mike Saglibene
Clerk Linda Cross
ABSENT: Attorney Thomas Reilly

Supervisor Fairbrother opened the Town Board meeting at 4:30 p.m., and requested those present to participate in the Pledge of Allegiance.

Mark Watts, Chemung County Soil & Water Conservation District spoke on:

- Highway Association will sponsor a “Tire Collection Day” has been extended,
 - Saturday May 14th 8-11a.m.
 - Register # of Tires by Friday May 6th
- Countywide Stream Management Program
 - Original 5 year Contract, expires end of 2016, board will need to decide if they wish to renew the contract for another five (5) years.
 - County Stream Program, won the 2016 “Special Project Award” from the NYS Employees Association for Soil & Water Districts.

CONCERNS OF THE PEOPLE – Dan, Harris Hill Manor, asked the Board about the Water bill increase. Supervisor Fairbrother replied, there has not been a raise in 10 years, Big Flats Water is still lower than any other town in the area.

REPORTS

Supervisor Fairbrother stated the following reports for March 2016 have been received and are on file in the office of the Town Clerk:

Town Clerk’s Monthly Report, Final Tax Report for 2016, Supervisor’s Fund Balance Monthly Report, Youth Department Monthly Report, Department of Public Works Monthly Report, Code and Planning Department Monthly Report, Community Center Monthly Report, Court’s Monthly Report.

NEW BUSINESS

RESOLUTION NO. 120-16 BUDGET TRANSFERS/AMENDMENT, VOID 2 CHECKS

Resolution by: Gillette
Seconded by: Giammichele

WHEREAS a memorandum was received from the Bookkeeper, dated April 5, 2016, requesting authorization to void two checks, and a budget Transfer /Amendment, and

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RESOLUTION NO. 120-16, BUDGET TRANSFERS/AMENDMENT, VOID 2 CHECKS
continued

WHEREAS for environmental review purposes, administration is a Type II action in accordance with SEQRA 6NYCRR, Part 617.5(c) (20) and as such no further action is necessary regarding the same, now

WHEREAS the Bookkeeper is also requesting two budget transfers, and amendments, and

Budget Transfers-Water District #4 –Budget amendment

Please authorize to amend the 2016 Water District #4 budget due to required water well repair costs.

Increase Appropriations-S4.0960	4,000
S & S Power & Pump –S4.8320.0400	4,000

Increase Appropriated Fund Balance A.0599	4,000
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Budget Transfers-Water District #5 –Budget amendment

Please authorize a budget transfer for overspent budget

To S & S Power & Pump –S5.8320.0200	621.44	
From S & S Power & Pump –S5.8320.0400		621.44

BE IT THEREFORE RESOLVED the Town Board authorizes the Bookkeeper to void check# 15423 made payable to The Repair Shop dated 03/24/16, amount \$9,673.99 and deleting vouchers #4006657 & 4006676. A new check will be reissued to Exmark Manufacturing Company, and

FURTHER RESOLVED the Town Board authorizes the Bookkeeper to void check # 15015 made payable to Municipal Solutions Inc. dated 12/30/15, amount \$2,414.50 and deleting vouchers #4006210 & 4006196. The check is uncashed as of 04/05/16 and is apparently lost in the mail. A new check will be reissued for replacement.

CARRIED: AYES: Gillette, Giammichele, Adams, Saglibene, Fairbrother
NAYS: None

RESOLUTION NO. 121-16
ABSTRACT OF AUDITED VOUCHERS FOR APRIL 13, 2016

Resolution by: Giammichele
Seconded by: Adams

RESOLVE that the Town of Big Flats approve the Abstract of Audited Vouchers for April 13, 2016, and order the bills paid, when in funds, for the following:

GENERAL FUND	\$ 294,036.80
HIGHWAY FUND	\$ 48,976.33
WD 4 & 5 Capital Project #12	\$ 108.42
WATER DISTRICT #4	\$ 12,703.76

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RESOLUTION NO. 121-16, ABSTRACT OF AUDITED VOUCHERS FOR APRIL 13, 2016
continued

WATER DISTRICT #5	\$ 36,920.23
TRUST FUND	\$ 2,093.56

CARRIED: AYES: Gillette, Giammichele, Adams, Saglibene, Fairbrother
NAYS: None

RESOLUTION NO. 122-16
DONATION OF TIME APPROVED

Resolution by: Adam
Seconded by: Saglibene

WHEREAS the Commissioner and the Deputy Commissioner of Public Works recognize the need to replace the Press Box Shutters at community park , and

WHEREAS the purchase of the new shutters have been made from Overhead Door of Elmira, for the sum of \$2,000.00, and

WHEREAS Chief installer Paul Stein has offered to donate 100% of his labor to keep the cost down for the Town to install the new shutters, and

WHEREAS for environmental review purposes, purchasing is a Type II action in accordance with SEQRA 6NYCRR, Part 617.5(c) (25) and as such no further action is necessary regarding the same, now

BE IT THEREFORE RESOLVED the Town Board accepts the donation of Paul Stein's time to install the new shutters on the Press Box at no cost to the Town.

CARRIED: AYES: Gillette, Giammichele, Adams, Saglibene, Fairbrother
NAYS: None

RESOLUTION NO.123-16
AGREEMENT WITH eCIVIS FOR GRANTS APPROVED

Resolution by: Gillette
Seconded by: Giammichele

WHEREAS the Town of Big Flats contracted with eCivis for grants per Resolution 118-15 for a period of one year, and

WHEREAS the contract with eCivis is up for renew, and

WHEREAS the renewal cost for two users for one year is \$1,600.00, and

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RESOLUTION NO.123-16, AGREEMENT WITH eCIVIS FOR GRANTS APPROVED
continued

WHEREAS for environmental review purposes, administration is a Type II action in accordance with SEQRA 6NYCRR, Part 617.5(c) (20) and as such no further action is necessary regarding the same, now

BE IT THEREFORE RESOLVED that the Town Board authorizes the Town Supervisor to enter into an agreement with eCivis for a two user grant system for one year for a cost not to exceed \$1,600.00

CARRIED: AYES: Gillette, Giammichele, Adams, Saglibene, Fairbrother
NAYS: None

RESOLUTION NO. 124-16
ATTENDANCE FOR THE 2016 ASSOCIATION OF TOWNS TAX RECEIVERS AND
COLLECTORS

Resolution by: Giammichele
Seconded by: Adams

WHEREAS the New York Association of Tax Receivers & Collectors seminar is a training Seminar for Tax collectors, and

WHEREAS said seminar is held annually with representatives offering sessions for updates regarding new and proposed regulations that effect the operations of office of the Tax Collector, and

WHEREAS Tammy Stein Deputy Town Clerk will provide office coverage during the absence of the Town Clerk, and

WHEREAS for environmental review administration is a Type II action in accordance with SEQRA 6NYCRR, Part 617.5(c) (19) and as such no further action is necessary regarding the same, now

BE IT THEREFORE RESOLVED the Town Board Authorizes Linda Cross, Town Clerk, to attend the New York State Association of Tax Receivers & Collectors Seminar held June 12th- June 15th, 2016, using the Town car with expenses, not to exceed Six Hundred Seventy Five \$675.00), and all appropriate expenses to be paid from the appropriate budgets.

CARRIED: AYES: Gillette, Giammichele, Adams, Saglibene, Fairbrother
NAYS: None

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RESOLUTION NO.125-16 TOWN POLICY ON SEXUAL HARASSMENT APPROVED

WHEREAS the New York Human Rights Law prohibits employers from allowing or perpetrating any discrimination based on sex (including gender identity and transgender status), sexual orientation, marital status, or domestic violence victim status (NY Exec. Law Sec. 296 et seq.).

WHEREAS effective January 19, 2016, all employers in the state, regardless of size, may be liable for unlawful sexual harassment.

WHEREAS effective January 20, 2016, discrimination based on gender identity is sex discrimination under the law (9 NYCRR Sec. 466.13). “Gender identity” is defined as having or being perceived as having a gender identity, self-image, appearance, behavior, or expression whether that identity is different from that traditionally associated with the sex assigned to that person at birth. A “transgender person” is an individual who has a gender identity different from the sex assigned to that person at birth. Under the regulation, harassment based on a person’s gender identity or transgender status is sexual harassment.

WHEREAS sexual harassment is a form of sex discrimination that also violates Title VII of the Civil Rights Act (Title VII).

WHEREAS forcible sexual touching by an employee can be a misdemeanor (Penal Law Section 130.52) and a felony if convicted 2 or more times in past 10 years (Penal Law Section 130.53) and sexual contact without consent can also be a misdemeanor (Penal Law Section 130.55).

WHEREAS the Town of Big Flats believes in the dignity of the individual and recognizes the rights of all people to equal employment opportunities in the workplace. In this regard, the Town of Big Flats is committed to a policy of protecting and safeguarding the rights and opportunities of all people to seek, obtain and hold employment without subjugation to harassment or discrimination in the workplace, now

THEREFORE BE IT RESOLVED that the Town Board adopts the attached “Town of Big Flats Sexual Harassment Policy” so as to provide an employment environment free from workplace harassment and discrimination based on sex.

TOWN OF BIG FLATS SEXUAL HARASSMENT POLICY

1. In recognition of the dignity and value of each person employed by the Town of Big Flats, this policy concerning sexual harassment is promulgated. All employees should be allowed to work in an environment free from all forms of discrimination and conduct which may be considered harassing, coercive or disruptive, including sexual harassment. Sexual harassment undermines the integrity of the employment relationship, debilitates morale and interferes with work productivity and therefore will not be tolerated.

The Town of Big Flats is committed to providing a work environment where women and men, be they heterosexual, lesbian, gay, bisexual, or transgender can work together comfortably and productively, free from harassment because of their **actual** or **perceived** sexual orientation..

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Such behavior is illegal under both state and federal law and will not be tolerated in the Town. Sexual harassment is prohibited by federal law, specifically by Title VII of the Civil Rights Act of 1964 (42 U.S.C. Section 2000e). Sexual harassment also is prohibited by New York State law under the New York State Human Rights Law, Executive Law Section 296.

Policy statement and coverage.

This policy applies to all phases of employment, including recruiting, testing, hiring, upgrading, promotion or demotion, transfer, layoff, termination, rates of pay, employment duties, benefits and selection for training, travel or municipal social events and is applicable to all officers or employees elected or appointed by the Town of Big Flats.

2. Definitions.

As used in this chapter, the following terms shall have the meanings indicated.

SEXUAL HARASSMENT

Generalized sexist remarks and behavior. Sexual harassment is a form of gender-based discrimination. It involves unwelcome sexual conduct that:

- Is used as the basis for hiring or other employment decisions, such as promotions, raises or job assignments; or
- Creates an intimidating, hostile or offensive work environment.

The harasser can be a supervisor, a co-worker or someone who is not an employee, such as a client or customer. Harassment is illegal when it is so frequent or severe that it creates a hostile or offensive work environment or when it results in an adverse employment decision.

Sexual harassment may be verbal, visual and/or physical, including:

- Sexually offensive remarks or jokes;
- Unwanted touching or groping;
- Coerced sex acts;
- Requests for sexual favors of a sexually suggestive nature (e.g., asking employee to dig coins out of a supervisor's pants pocket);
- Displaying pornographic images;
- Comments (either complimentary or derogatory) about a person's gender or sexual preferences;
- Sexual gestures (e.g., pantomiming sex acts).

And it can also include the following:

SEDUCTIVE BEHAVIOR

Inappropriate, unwanted, offensive physical or verbal sexual advances.

SEXUAL BRIBERY

Solicitation of sexual activity or other sex-linked behavior by promise of reward.

SEXUAL COERCION

Coercion of sexual activity by threat of punishment.

SEXUAL ASSAULT

Gross sexual imposition, like touching, fondling, grabbing or assault.

The law protects both men and women, and also covers incidents in which the harasser and/or the victim are of the same sex, regardless of one's actual or perceived sexual orientation. Third parties (non-employees) may complain when one or more of the following occurs: (1) submission to sexual demands is a general condition of employment; (2) harassment directed

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at others adversely affects the third party's work environment; or (3) offensive sexual conduct, even if consensual between the parties involved, is creating a hostile work environment for the third party.

3. **Prohibited behavior.**

Sexual harassment of any type, as defined in Section 2, is prohibited. Additionally, if the unwelcomed behavior does not fit into the above categories but is the inappropriate sexualization of an otherwise nonsexual relationship, it will be considered sexual harassment.

4. **Harassment by nonemployees.**

In addition, the Town of Big Flats will take all reasonable steps to prevent or eliminate sexual harassment by non-employees, including vendors, sales personnel or members of the public who are likely to have workplace contact with the employees.

5. **Monitoring.**

The Town of Big Flats shall take all reasonable steps to see that this policy prohibiting sexual harassment is followed by all employees and others who have contact with employees. This prevention plan will include training sessions and ongoing monitoring of the work site

6. **Complaint procedure.**

The Supervisor of the Town of Big Flats (or his/her delegate) is hereby appointed to administer this policy. All complaints of sexual harassment and retaliation for reporting or participating in an investigation shall be directed to the Supervisor, in writing. The Supervisor or his delegate shall promptly investigate and attempt to resolve complaints involving violations of this policy and recommend to the Town Board the appropriate penalties to be imposed against violators. All investigations shall be conducted as confidentially as possible. (In any case where the Supervisor shall be the subject of a complaint, such complaint shall be made to the Town Clerk and not to the Supervisor.) Pending the completion of this investigation, separation of the parties may be appropriate. The investigation should end with a written report setting forth all allegations, statements by witnesses, action taken and conclusion. Statements of witnesses should be put in writing and sworn to.

7. **Legal issues and other resources beyond the workplace.**

a. **COURT ACTION** You may also have the right to file a lawsuit against your employer in either state or federal court. Filing in federal court requires that you first file a complaint with the EEOC before bringing a lawsuit. No such requirement applies in state court.

If the issues are not resolved internally and the "victim" chooses to pursue "litigation" it may be necessary to try to impose liability on the employer by proving the existence of a hostile workplace. Litigation is very complex. Federal or state court action is usually the last resort.

"In general, to prevail on a hostile work environment claim, a plaintiff [the employee] must show that (1) he or she was a member of a protected class; (2) he or she was subjected to unwelcome sexual harassment; (3) the harassment complained of was based on sex; (4) the charged sexual harassment created a hostile work environment; and (5) the employer is liable. *Randolph v. Ohio Dep't of Youth Servs.*, 453 F.3d 724, 733 (6th Cir. 2006). To establish employer liability where the harasser is a co-worker, a plaintiff must show that the employer

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knew or should have known of the conduct and failed to take prompt and appropriate corrective action. *E.E.O.C. v. Harbert Yeargin, Inc.*, 266 F.3d 498, 518 (6th Cir. 2001)” *Smith v. Rock-Ten, Inc.* (Federal Court of Appeals for the 6th Circuit February 2016 at page 8).

Generally a hostile workplace is proved when it is established that the workplace was permeated with discriminatory intimidation, ridicule and insult such that it is **severe or pervasive** and that the workplace is proven to be hostile **subjectively and objectively**.

An employer has actual notice of harassment when sufficient information either comes to the attention of someone who has the power to terminate the harassment, or it comes to someone who can reasonably be expected to report or refer a complaint to someone who can put an end to it. Actual notice is such notice as is positively proved to have been given to a party directly and personally, or such as he is presumed to have received personally because the evidence within his knowledge was sufficient to put him upon inquiry. In the context of sexual harassment claims, actual notice is established by proof that management knew of the harassment. *Sandoval v. American Bldg Maintenance Industries, Inc.*, 578 F.3d 787, 802 (8th Cir. 2009)

Finally, “The last requirement for [a Title VII] hostile work environment claim is employer liability. To impose liability on an employer for the harassing conduct of a plaintiff’s co-worker, a “plaintiff must show that the employer’s response to the plaintiff’s complaints ‘manifest[ed] indifference or unreasonableness in light of the facts the employer knew or should have known.’” *Waldo v. Consumers Energy Co.*, 726 F.3d 802, 814 (6th Cir. 2013) (quoting *Hawkins*, 517 F.3d at 338). A plaintiff must therefore show that the employer “knew or should have known of the harassment” and “failed to take prompt and appropriate corrective action.” *McCombs v. Meijer, Inc.*, 395 F.3d 346, 353 (6th Cir. 2005) (quoting *Harbert-Yeargin*, 266 F.3d at 518). “Generally, a response is adequate if it is reasonably calculated to end the harassment.” *Waldo*, 726 F.3d at 814. Appropriate steps “may include promptly initiating an investigation.” *Id.* Even separating the harasser and victim immediately may not be enough without further action on the employer’s part. *West v. Tyson Foods, Inc.*, 374 F. App’x 624, 633 (6th Cir. 2010).” *Smith v. Rock-Ten* pages 13-14

b. OTHER PROCEDURES

Generally, however, court is not necessary as there are other routes that can be pursued.

The aggrieved employee should always follow employer procedures first by contacting the person or office who may have been designated by your employer to receive such complaints.

One should also consult with an attorney experienced in these matters as there is no one right answer about how to proceed. It is advisable to consult an attorney who can explain all of the available options. This area of the law can be very complicated, factually as well as legally. Note also that there are deadlines for filing a complaint under each of the laws prohibiting sexual harassment.

Consult with the agencies listed below about specific procedures and time limits that apply:

New York State Office of the Attorney General (OAG) Civil Rights Bureau

The Civil Rights Bureau determines whether the experiences are evidence of a pattern, practice or policy of sexual harassment affecting a significant number of people. The Bureau may then commence an investigation and/or initiate legal action against the employer. NOTE: The Attorney General represents the People of the State of New York, not the individual making a complaint. Filing a complaint with the OAG is not a substitute for bringing a case in court or elsewhere, and it does not affect any of the filing deadlines or other administrative prerequisites

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for filing a case in court or with other government agencies. One may contact the Bureau at: Civil Rights Bureau, New York State Attorney General's Office, 120 Broadway, New York, NY 10271; or at (212) 416-8250 or (800) 771-7755; or at civil.rights@ag.ny.gov.

NYS Division of Human Rights (SDHR)

Complaints may be filed with the SDHR office located within the city or county in which you work. If that office is not located in that city or county, it may be located in a nearby city or county. This agency can investigate complaints and conduct hearings before an administrative judge. The matter can be resolved via that hearing but if one is not satisfied with the result then court action can be pursued.

U.S. Equal Employment Opportunity Commission (EEOC) This federal agency handles complaints of discrimination in the workplace. The EEOC investigates sexual harassment charges against all employers with more than 15 employees.

8. Training.

A. The Town of Big Flats shall establish training sessions for all employees regarding their rights and obligations in maintaining a work site free of sexual harassment and the legal or other procedural options available if they are harassed, as well as in training supervisory personnel in how to keep the work site as free from harassment as possible.

B. The Supervisor, Town Clerk and any other individuals administering the response process to sexual harassment complaints shall receive additional and continual training.

9. Groundless or malicious charges.

It shall be a violation of this policy for any employee of the Town of Big Flats to make any groundless, untruthful, malicious, unfounded or otherwise a false report regarding alleged sexual harassment by any other person and subject such employee to all the sanctions and/or remedies herein provided.

10. Procedural elements.

In accordance with NYCRR (New York Code of Rules and Regulations), Equal Employment Opportunity and Affirmative Action, the procedures promulgated shall include the following elements:

A. **Confidentiality.** Sexual harassment investigations and proceedings will be conducted in a manner to protect the confidentiality of the complainant, the accused harasser and all witnesses to the extent reasonably possible. All parties involved will be advised to maintain strict confidentiality to safeguard the privacy and reputation of all involved.

B. **Retaliation.** Any employee bringing a sexual harassment complaint or assisting in investigating such a complaint shall not be adversely affected in terms and conditions of employment or discriminated against or discharged because of the complaint. Complaints of any such retaliation may be cause for disciplinary action and will be promptly investigated and the offender punished if the complaint is sustained.

C. **Protection of parties.**

(1) All complaints will be investigated. Complainants and the alleged harasser will be kept fully abreast of the steps taken during the investigation process.

(2) The accused harasser will have an opportunity to be heard and will be allowed to present any witnesses, documentation or other evidence prior to the

MINUTES OF THE TOWN BOARD MEETING OF APRIL 13, 2016

Supervisor making a finding or rendering a decision as to whether probable cause exists to believe the accusation is true or false. If the accused harasser is a member of a union representing town employees, he/she shall have the right to have an official union representative present. The Supervisor or his/her delegate shall notify that union of the fact that an investigation is going to be conducted regarding the conduct of one of its members. At no time shall said union representative or any lawyer unreasonable delay or otherwise the investigation as a speedy resolution is very important.

(3) If probable cause is found to exist, the accuser will also be allowed to bring in a collective bargaining association representative and/or legal counsel.

(4) The accused harasser shall also be entitled to the benefits of any other procedures available pursuant to any existing collective bargaining or employment agreement then in effect if said procedures are applicable.

D. Sanctions/remedies.

Sanctions for employees found in violation of this policy will be subject to progressive discipline, when appropriate and subject to the union contract with the Town, which includes:

- (1) Referral to counseling.
- (2) Oral reprimand.
- (3) Written reprimand.
- (4) Reassignment.
- (5) Suspension.
- (6) Termination.
- (7) Referral to the criminal justice system for possible sexual assault violations.

11. Discipline.

Any employee found to have violated this policy shall be subject to the appropriate disciplinary action, including warnings, reprimand, suspension or termination, according to the severity of the offense and with regard to prior offenses, following a complaint investigation. If such an investigation reveals that sexual harassment has occurred, the harasser may also be held legally liable for his or her actions under state and federal antidiscrimination laws or in separate legal action.

12. Distribution.

A copy of this policy shall be distributed to all officers and employees of the Town of Big Flats and posted in areas where it will be available for review by employees and persons dealing with them.

CARRIED: AYES: Gillette, Giammichele, Adams, Saglibene, Fairbrother

NAYS: None

RESOLUTION NO. 126-16 RESIGNATION OF TED DANGELMAIER MEMBER OF BOARD OF ASSESSMENT REVIEW APPROVED

Resolution by: Saglibene

Seconded by: Gillette

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RESOLUTION NO. 126-16, RESIGNATION OF TED DANGELMAIER MEMBER OF BOARD OF ASSESSMENT REVIEW APPROVED continued

WHEREAS a Memo dated April 5, 2016, has been received from Supervisor Edward Fairbrother stating Ted Dangelmaier has resigned as member of the Board of Assessment Review, and

WHEREAS for environmental review purposes the Town Board finds this to be Type II administration action pursuant to 6NYCRR 617.5(c)(20) and as such, no environmental review is required for a Type II action, now

BE IT THEREFORE RESOLVED the Town Board acknowledges the resignation of Ted Dangelmaier as a member of the Board of Assessment Review of the Town of Big Flats effective April 5, 2016.

CARRIED: AYES: Gillette, Giammichele, Adams, Saglibene, Fairbrother
NAYS: None

RESOLUTION NO. 127-16
RESIGNATION OF THOMAS ROGAN MEMBER OF BOARD OF ASSESSMENT REVIEW
APPROVED

Resolution by: Gillette
Seconded by: Giammichele

WHEREAS an email, dated March 14, 2016, has been received from Thomas Rogan resigning as member of the Board of Assessment Review, and

WHEREAS for environmental review purposes the Town Board finds this to be Type II administration action pursuant to 6NYCRR 617.5(c)(20) and as such, no environmental review is required for a Type II action, now

BE IT THEREFORE RESOLVED the Town Board acknowledges the resignation of Thomas Rogan as a member of the Board of Assessment Review of the Town of Big Flats effective March 14 2016.

CARRIED: AYES: Gillette, Giammichele, Adams, Saglibene, Fairbrother
NAYS: None

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RESOLUTION NO. 128-16
SECTION 284 OF THE HIGHWAY LAW AGREEMENT APPROVED

Resolution by: Giammichele
Seconded by: Adams

WHEREAS in accordance with Highway Law, Section 284, the Town Supervisor, Town Board, and Commissioner of Public Works are required to enter into an agreement regarding moneys levied and collected in the Town for repair and improvement of highways, and

WHEREAS for environmental review, repaving of existing highways not involving the addition of new travel lanes is a Type II action in accordance with SEQRA 6NYCRR, Part 617.5 (c) (4) and as such no further action is necessary regarding the same, now

BE IT THEREFORE RESOLVED, in accordance with Highway Law, Section 284, the Town Supervisor, Town Board and Commissioner of Public Works are authorized to enter into the Agreement for the Expenditure of Highway Moneys.

CARRIED: AYES: Gillette, Giammichele, Adams, Saglibene, Fairbrother
NAYS: None

**AGREEMENT FOR THE EXPENDITURE
OF HIGHWAY MONEYS**

Plan – March 15, 2016

AGREEMENT between the Commissioner of Public Works of the Town of Big Flats, Chemung County, New York, and the undersigned members of the Town Board. Pursuant to the provisions of Section 284 of the Highway Law, we agree that moneys levied and collected in the Town for the repair and improvement of highways, and received from the State for State Aid for the repair and improvement of highways, shall be expended as follows:

1. GENERAL REPAIRS. The sum of **\$281,281** (\$206,281 personnel and \$75,000 repairs) shall be set aside to be expended for primary work and general repairs upon 74.54 miles of town highways, including sluices, culverts and bridges having a span of less than twenty feet, Olcott Road N Bridge, and boardwalks or the renewals thereof.
2. PERMANENT IMPROVEMENTS. The Town is slated to receive \$167,265 in CHIPS funding in 2016, plus \$803,300 in Town capital funds (a 22% decrease in Town funds from 2015) for a total program of **\$970,565**. The following sums shall be set aside to be expended for the permanent improvement of Town highways:
 - a. The road known as Hillview Drive, a total distance of 0.85 miles, shall be milled and paved with 3.0-in of Type 3 Binder and 1.5-in of Type 6F or 7F top. There shall be expended not over the sum of **\$224,000**.

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- b. The road known as Barnes Hill Road (upper section), a total distance of 0.88 miles, shall be milled and paved with 1.5-in of Type 6F or 7F asphalt top. There shall be expended not over the sum of **\$79,700**.
- c. On the roads known as Woods View, County Line Drive, Barnes Hill Road (lower section), and Briar Lane, a total distance of .98 miles, shall be tack-coated and overlaid with 1.5-in of Type 6F or 7F asphalt top. There shall be expended not over the sum of **\$89,300**. It is anticipated that CHIPS funding shall be used.
- d. On the road known as Riverwood Drive, a distance of approximately 0.22 miles, there shall be expended not over the sum of **\$43,400**. This road shall be dry ground, oil injected, and shall be overlaid with 2.0-in of Type 6F asphalt top. It is anticipated that CHIPS funding shall be used.
- e. On the roads known as Bennet Road (from Far Rockaway), Brown Road, and Far Rockaway Road, a distance of approximately 1.81 miles, there shall be expended not over the sum of **\$147,800**. These roads shall be dry ground, oil injected, and have a 2-layer chip seal topping applied.
- f. On the road known as Bennet Road (from SR225 to Far Rockaway), a distance of approximately 0.64 miles, there shall be expended not over the sum of **\$15,000**. This road shall have a 2-layer chip seal topping applied. It is anticipated that CHIPS funding shall be used.
- g. On the roads known as Barnes Hill Road, Breed Hollow Road, Curren Road, Davenport Road, Eacher Hollow Road (lower section), Kneale Road, Leach Hill Road, Markle Hollow Road, Olcott Road North, Owen Hollow Road, Reasor Hollow Road, and Kahler Road North, a distance of approximately 15.43 miles, there shall be expended not over the sum of **\$189,000**. These roads shall have a chip seal topping applied.
- h. On the road known as Shady Knoll Drive, a distance of approximately 0.25 miles, there shall be expended not over the sum of **\$3,500**. This road shall be patched and have a chip seal topping applied. It is anticipated that CHIPS funding shall be used.
- i. On the roads known as Woodside Drive, Suburban Drive, Miller Street, Longwell Avenue, Foothill Drive, Green Valley Drive, Hammond Street, Heritage Lane, Hickory Street, Eagle View Drive, Cardinal Lane, Cardinal Road, Carson Drive, Church Street, and Brookside Circle, a distance of approximately 3.49 miles, there shall be expended not over the sum of **\$75,900**. These roads shall have a slurry seal topping applied.
- j. On the roads known as Pine Forest Drive and Mount Saviour Road, a distance of 0.89 miles, there shall be expended not over the sum of **\$30,000**. A sand-mix shall be paver applied. It is anticipated that CHIPS funding shall be used.
- k. On the road known as Beers Hill Road, a distance of 1.0 miles, there shall be expended not over the sum of **\$30,800**. A sand-mix shall be paver applied in various locations.
- l. On all Town Roads requiring pavement markings, there shall be expended not greater than **\$6,500**. It is anticipated that CHIPS funding shall be used.
- m. On all Town Roads requiring crack sealing, there shall be expended not greater than **\$10,000**.

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- n. *Due to the road conditions exacerbated by the winter weather, we shall set aside an additional amount not to exceed \$25,665 for “Winter Repairs” at locations to be determined.*
3. An additional amount of **\$57,784** shall also be set aside for personnel expenses of the Permanent Improvements program.

Executed in duplicate this 13th day of April, 2016.

Town Supervisor

Board Member

Board Member

Board Member

Board Member

Commissioner of Public Works

RESOLUTION NO. 129-16
SHARED GEOGRAPHICAL INFORMATION SYSTEMS (GIS) AGREEMENT APPROVED

Resolution by: Saglibene

Seconded by: Adams

AGREEMENT, made this 13th day of April, 2016 by and between

An AGREEMENT among the following:

Chemung County, 203 Lake Street, Elmira, NY 14901

(hereinafter referred to as “County”)

City of Elmira, 317 East Church Street, Elmira, NY 14901

Village of Horseheads, 202 South Main Street, Horseheads, NY 14845

Town of Big Flats, 476 Maple Street, Big Flats, NY 14814

Town of Elmira, 1255 West Water Street, Elmira, NY 14905

Town of Horseheads, 150 Wygant Road, Horseheads, NY 14845

Town of Southport, 1139 Pennsylvania Avenue, Elmira, NY 14904

Elmira Water Board, 261 West Water Street, Elmira, NY 14901

Chemung County Soil and Water, 851 Chemung Street, Horseheads, NY 14845

Chemung County Stormwater Coalition, 851 Chemung Street, Horseheads, NY 14845

Elmira-Chemung Transportation Council, 400 East Church Street, Elmira, NY 14901

Chemung County Sewer District, 600 Milton Street, Elmira, NY 14904

WHEREAS the County has formed a GIS Consortium (Chemung County Geographical Information Systems [GIS] Consortium hereinafter known as the CCGC) to efficiently facilitate GIS coordination and data sharing within the County and with neighboring counties, and

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AGREEMENT APPROVED continued

WHEREAS the County has entered into a three-year agreement with Environmental Systems Research Institute Inc. (ESRI) to provide all necessary GIS server software and server licensing, and

WHEREAS the County will house the servers and storage necessary for the CCGC, and

WHEREAS a major cost associated with the development of a geographical information system ("GIS") program is related to the development and maintenance of its spatial data, and

WHEREAS the parties on this agreement have invested significant money and effort in the development and maintenance of GIS data, and

WHEREAS the reuse and distribution of GIS data created by government agencies provides significant cost savings opportunities to other government programs/entities with limited technical and financial resources, and

WHEREAS the CCGC is serious about obtaining the efficiencies and savings association with the sharing of their respective GIS data and collaborating on the development of systems and applications pursuant to the terms described below, now

THEREFORE BE IT RESOLVED, in consideration of the mutual representations, covenants and agreements herein set forth, the parties, each binding itself, its successors and assigns, do mutually promise, covenant and agree as follows;

FIRST: The parties hereto agree to share digital GIS data with each other and other participating municipalities at no charge to the other party.

SECOND: The parties agree to membership in the CCGC and to abide by the bylaws set forth.

THIRD: The parties hereto agree that all digital GIS data will be shared except where restricted by security guidelines or data agreements with other agencies or private sector companies.

FOURTH: None of the parties hereto or other participating party will provide data to non-participating parties without entering into a Third-Party Agreement restricting the redistribution and/or resale of said data.

FIFTH: None of the parties hereto, nor any other participating party, will provide data owned by other parties to this agreement to any third party agency or private sector company without written authorization from the CCGC.

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Pursuant to the 1994 "Interlocal" agreement, the component municipalities contracted for the original digital tax map development, which was then copyright protected by the County. The County has provided ongoing digital tax map maintenance. Ownership of the tax maps for each municipality rests with both the County and each respective municipality. Neither the participating municipality nor the County needs to get permission from the other in order to provide digital tax map files to third party; however, any provision of said tax map files to a third party will require the Third-Party Agreement mentioned in the Third covenant.

SIXTH: None of the parties hereto warrants the accuracy of any shared data and states that the data is provided on an "as is" basis.

SEVENTH: The term of this Agreement will commence on the date first entered above and will terminate on December 31, 2017, unless terminated earlier as provided herein.

EIGHT: Any party may cancel this Agreement on ninety (90) days written notice to the other party. Any party canceling this agreement shall not be entitled to a full or partial refund of the current year commitment that has already been received by the CCGC.

NINTH: This Agreement shall not be enforceable unless signed by the parties and approved by the Office of the County Attorney.

TENTH: All notices given pursuant to this agreement shall be in writing and will be hand delivered, sent via US Postal Service or emailed and shall be effective on delivery to the CCGC.

ELEVENTH: This Agreement constitutes the entire agreement between the parties hereto with respect to the subject matter hereof and shall supersede all previous negotiations, comments and writings. It shall not be released, discharged, changed or modified except by an instrument in writing signed by a duly authorized representative of each of the parties.

TWELFTH: Each party has agreed to provide financial support to the County (Appendix A) to help offset the cost of the ESRI software.

APPENDIX A

GIS Commitments

Organization	Address	2016	2017
Town of Big Flats	476 Maple Street, Big Flats, NY 14814	2,000.00	2,000.00
City of Elmira	317 East Church Street, Elmira, NY 14901	4,000.00	4,000.00
Elmira-Chemung Transportation Council	400 East Church Street, Elmira, NY 14901	5,000.00	5,000.00
Elmira Water Board	261 West Water Street, Elmira, NY 14901	1,000.00	1,000.00
CC Sewer District	600 Milton Street, Elmira, NY 14904	3,000.00	3,000.00
CC Soil and Water	851 Chemung Street, Horseheads, NY 14845	5,000.00	5,000.00

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CC Stormwater Coalition	851 Chemung Street, Horseheads, NY 14845	5,000.00	5,000.00
Town of Horseheads	150 Wygant Road, Horseheads, NY 14845	1,000.00	1,000.00
Town of Southport	1139 Pennsylvania Avenue, Elmira, NY 14904	1,000.00	1,000.00
Village of Horseheads	202 South Main Street, Horseheads, NY 14845	1,000.00	1,000.00
Town of Elmira	1255 West Water Street, Elmira, NY 14905	1,000.00	1,000.00

CARRIED: AYES: Gillette, Giammichele, Adams, Saglibene, Fairbrother
NAYS: None

RESOLUTION NO.130-16 SURPLUS DECLARATION APPROVED

Resolution by: Adams
Seconded by: Gillette

WHEREAS, it has been determined that the items on the attached list should be declared as surplus, and

WHEREAS for environmental purposes, the sale of surplus government equipment is a Type II action in accordance with SEQRA 6NYCRR, Part 617.5 (c) (25) and as such no further action is necessary regarding the same, now

BE IT THEREFORE RESOLVED the Town Board authorizes the attached listed items to be sold as surplus.

CARRIED: AYES: Gillette, Giammichele, Adams, Saglibene, Fairbrother
NAYS: None

2016 Surplus

DPW

1. Obsolete Miscellaneous Tires

Highway

- 1984 Grader Serial#ID-R-10825
2. 1984 Ford Tractor VIN#C715829
3. 1987 Case Tractor VIN#B019375

Parks

4. 2000 JD 1435 Mower

Drainage

5. 2006 Bobcat Track Loader VIN#531613387
6. 2000 Steiner Serial#B9063

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Water

7. Gould's Pump Serial #2B95070720 Estimated Hours 19,000

Town Hall

8. 2001 Bennett Unleaded Fuel Pump Serial #10E630783
9. 2001 Bennett Diesel Fuel Pump Serial #10E630784
10. 2006 Dodge Stratus VIN#1B3EL46XX6N244597
11. Light Fixtures (Troffers from LED Replacement)
12. Air Conditioning Unit

Town Clerks

13. Lexmark Type Writer
14. Lexmark E260dn Printer

Court

15. Lexmark MS610DN Printer
16. Toshiba-eStudio 203SD Printer with Paper Cart
17. Xerox- Work Center 3220 Printer
18. Paper Cart

RESOLUTION NO.131-16

CREATING A POSITION AS "WORKING SUPERVISOR" FOR DPW APPROVED

Resolution by: Gillette
Seconded by: Giammichele

WHEREAS the Town Supervisor, DPW Commissioner and Deputy Commissioner finds it in the best interest of the Town to create a position designated as Working Supervisor of Public Works, and

WHEREAS said Working Supervisor Position will assist the Deputy Commissioner of Public Works to do so with regard to Department of Public Works matters, and

WHEREAS the Commissioner of Public Works will make such appointment, and

WHEREAS for environmental review purposes, purchasing is a Type II action in accordance with SEQRA 6NYCRR, Part 617.5(c) (20) and as such no further action is necessary regarding the same, now

BE IT THEREFORE RESOLVED The Town Board establishes the position known as Working Supervisor of Public Works to be appointed by the Commissioner of Public Works.

CARRIED: AYES: Giammichele, Adams, Fairbrother
NAYS: Gillette, Saglibene

MINUTES OF THE TOWN BOARD MEETING OF APRIL 13, 2016

RESOLUTION NO. 132-16
JAMES GOODWIN AS “WORKING SUPERVISOR” FOR DPW APPOINTED

Resolution by: Giammichele
Seconded by: Adams

WHEREAS the Town Board determined the necessity to create the position of Working Supervisor of Public Works, and

WHEREAS said position was created by Resolution No. 131-16, and

WHEREAS subject to a complete and satisfactory employment application, as determined by the Commissioner of Public Works said appointment shall be effective immediately, and

WHEREAS for environmental review purposes, administration is a Type II action in accordance with SEQRA 6NYCRR, Part 617.5(c) (20) and as such no further action is necessary regarding the same, now

BE IT THEREFORE RESOLVED the Commissioner of Public Works appoints James Goodwin as the new Working Supervisor of Public Works.

CARRIED: AYES: Gillette, Giammichele, Adams, Saglibene, Fairbrother
NAYS: None

RESOLUTION NO.133-16
CREATING A “LABORER” POSITION FOR DPW APPROVED

Resolution by: Adams
Seconded by: Saglibene

WHEREAS the Town Supervisor, DPW Commissioner and Deputy Commissioner finds it in the best interest of the Town to create a position designated as Laborer Position, and

WHEREAS the Laborer Position title is a CSEA position per the agreement, and

WHEREAS said Laborer will work thirty weeks annual, and

WHEREAS the Commissioner of Public Works will make such appointment, and

WHEREAS for environmental review purposes, purchasing is a Type II action in accordance with SEQRA 6NYCRR, Part 617.5(c) (20) and as such no further action is necessary regarding the same, now

BE IT THEREFORE RESOLVED The Town Board establishes the position known as Laborer Position to be appointed by the Commissioner of Public Works.

CARRIED: AYES: Gillette, Giammichele, Adams, Saglibene, Fairbrother
NAYS: None

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RESOLUTION NO. 134-16

GREG FITZSIMMONS, "LABORER" POSITION FOR DPW APPOINTMENT APPROVED

Resolution by: Saglibene

Seconded by: Gillette

WHEREAS the Town Board determined the necessity to create the position of Laborer Position, and

WHEREAS said position was created by Resolution No. 133-16, and

WHEREAS subject to a complete and satisfactory employment application, as determined by the Commissioner of Public Works said appointment shall be effective immediately, and

WHEREAS for environmental review purposes, administration is a Type II action in accordance with SEQRA 6NYCRR, Part 617.5(c) (20) and as such no further action is necessary regarding the same, now

BE IT THEREFORE RESOLVED the Commissioner of Public Works appoints Greg Fitzsimmons as the new Laborer.

CARRIED: AYES: Gillette, Giammichele, Adams, Saglibene, Fairbrother

NAYS: None

RESOLUTION NO.135-16

ROAD SALT PURCHASE FOR 2016 – 2017 THROUGH STATE BID APPROVED

Resolution by: Gillette

Seconded by: Giammichele

WHEREAS the Town will need to purchase salt for winter road maintenance for 2016/2017, and

WHEREAS the State bid for road salt is listed under Group No. 01800, and

WHEREAS the contract period for road salt is September 1, 2016 through August 31, 2017 and

WHEREAS the state mandated that a Requirement Letter be filed with OGS prior to May 30, 2016 to participate in purchasing under State Bid, and

WHEREAS for environmental review, purchasing is a Type II action in accordance with SEQRA 6NYCRR, Part 617.5 (c) (25) and as such no further action is necessary regarding the same, now

BE IT THEREFORE RESOLVED the Town Board authorizes the Commissioner of Public Works to purchase road salt, not to exceed the utilizing state bid contract for the duration of said contract period.

CARRIED: AYES: Gillette, Giammichele, Adams, Saglibene, Fairbrother

NAYS: None

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RESOLUTION NO.136-16
COMMUNICATION LOG FOR APRIL 23, 2016 APPROVED

Resolution by: Giammichele
Seconded by: Adams

BE IT RESOLVED that the following communications were received, accepted and filed by the Town Clerk of the Town of Big Flats and referred to the appropriate Department Head for information and/or action:

April 7, 2016

Time Warner Cable – RE: April 7, 2016 Programming Notice Changes *Referred to: Town Board, and filed with Town Clerk.*

April 7, 2016

Big Flats Business Association RE: minutes of April 6, 2016 meeting *Referred to: Town Board, and filed with Town Clerk.*

April 12, 2016

Sheriff of Chemung County RE: No longer providing Court Security Services.
Referred to: Town Board, Big Flats Court office, and filed with Town Clerk.

CARRIED: AYES: Gillette, Giammichele, Adams, Saglibene, Fairbrother
NAYS: None

RESOLUTION NO. 137-16
MARY LEE FAIRBROTHER AS BOAR FOR THE YEAR OF 2016 APPROVED

Resolution by: Adams
Seconded by: Saglibene

WHEREAS the resignation of Thomas Rogan has left a vacancy on the Board of Assessment Review and the need to fill the remainder of the term, (2016) and

WHEREAS Mary Lee Fairbrother, 53 Park Terrace, Horseheads, NY, in the Town of Big Flats has expressed interest to fill in for the year of 2016, and

WHEREAS for environmental purposes, administration is a Type II action in accordance with SEQRA 6NYCRR, Part 617.5 (c) (20) and as such no further action is necessary regarding the same, now

BE IT THEREFORE RESOLVED the Town Board appoints Mary Lee Fairbrother, 53 Park Terrace, Horseheads as Board member of Assessment Review with a term ending September 30, 2016, and the Town Supervisor will advise Mary Lee Fairbrother to be sworn in by the Town Clerk, and to report to the Town Assessor for the Proper training.

CARRIED: AYES: Gillette, Giammichele, Adams, Saglibene
NAYS: None ABSTAIN: Fairbrother

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Supervisor Fairbrother also commented on:

- Assessing update on shared services
- Loss of security for courts
- I86 update
- Schweitzer building
- New Bonding agent Fiscal Advisors
- National Soaring Museum luncheon April 29th
- Sales Tax
- IT leave your surface pros
- Water projects
- Shared services with Catlin and Millport on water billing
- Water billing District 4
- July 1st payroll with the County
- Senior trips on website first one June 1
- Major building projects for 2017 meeting
- Minimum wage increase effects
- LED update
- Training for Town Employee, in a.m. of June 3rd mandatory
- Chickens and Bees
- April 20th Golden Glow meeting
- June 9th open house at the community center
- Community Broadcasters LLC/ at Tag's concerts

Councilperson Adams made a motion, seconded by Councilperson Saglibene to adjourn the Town Board meeting at 6:12 p.m. All in favor, motion carried.

Date approved: _____ Linda Cross
Town Clerk